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ABSTRACT

This document is a committee report on H.R. 5087, a bill to improve veterans' education assistance programs, which the committee recommended unanimously to approve as amended. Some of the major provisions of the bill are the following: (1) change the requirements that military personnel complete high school equivalency degree requirements before leaving active duty, to completion within 12 months of enactment of the bill, whether an individual is on active duty or not, in order to become eligible for Montgomery GI Bill benefits; (2) make short periods of active duty irrelevant to longer periods of subsequent enlistment; (3) bar payment of education benefits to an individual for training paid for under the Government Employees Training Act; (4) require that programs certify the enrollment, attendance, and course of study of attendees; (5) limit approval of independent study; (6) make class time requirement changes; and (7) extend eligibility for certain persons. This report summarizes the major provisions of the bill, provides the language of the amendments, provides background and discussion of the bill, offers a section-by-section analysis, and includes the viewpoint of the Department of Defense. (KC)

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GI BILL AMENDMENTS OF 1992

JULY 29, 1992.—Ordered to be printed

Mr. MONTGOMERY, from the Committee on Veterans' Affairs,
submitted the following

REPORT

[To accompany H.R. 5087]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5087), to amend title 38, United States, with respect to veterans' education assistance, and for other purposes, having considered the same, report favorably thereon with amendment, by unanimous voice vote, and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF PERIOD FOR COMPLETING REQUIREMENTS FOR EQUIVALENCY CERTIFICATE FOR SECONDARY SCHOOL DIPLOMA.

- (a) IN GENERAL.—(1) Section 3011 of title 38, United States Code, is amended—
(A) in subsection (a)(2), by inserting ", except as provided in subsection (e) of this section," after "who"; and

(B) by adding at the end thereof the following new subsection:

"(e) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 12-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty."

- (2) Section 3012 of such title is amended—

(A) in subsection (a)(2), by inserting "except as provided in subsection (f) of this section," after "who,"; and

(B) by adding at the end thereof the following new subsection:

"(f) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 12-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty."

(b) **NOTIFICATION REQUIREMENT.**—Not later than 60 days after the date of enactment of this Act, the Secretary of each of the military departments shall notify each individual who was on active duty in the Armed Forces on August 2, 1990, and who has not met the requirements of a secondary school diploma (or equivalency certificate), of the extension of the period for the completion of such requirements afforded by the amendments made by this section.

SEC. 2. EXCLUSION OF CERTAIN PERIODS FROM INITIAL OBLIGATED PERIOD OF ACTIVE DUTY FOR PURPOSES OF DETERMINING EDUCATIONAL BENEFITS.

(a) **IN GENERAL.**—(1) Section 3011(b) of title 38, United States Code, is amended—

(A) by striking out “(b) The basic pay” and inserting in lieu thereof “(b)(1) Except as provided in paragraph (2), the basic pay”;

(B) by adding the following new sentence at the end of paragraph (1) (as designated by subparagraph (A) of this paragraph): “An individual who becomes entitled to educational assistance under this chapter based upon the service described in subsection (d)(4)(B) shall be credited under this subsection with the amount of basic pay reduced under this subsection (if any) during a previous period of active duty.”; and

(C) by adding after paragraph (1) (as designated by subparagraph (A) of this paragraph) the following:

“(2)(A) An individual described in subparagraph (B) who is establishing or has established entitlement to educational assistance under this chapter based upon the service described in subsection (d)(4)(B) shall pay to the Secretary of Defense an amount equal to the amount required by paragraph (1). A payment under this paragraph shall be made by reductions in basic pay, a payment of cash, or a combination thereof, in accordance with such regulations as the Secretary of Defense shall prescribe.

“(B) An individual referred to in subparagraph (A) is—

“(i) an individual who separated from service before the date of enactment of this subsection; or

“(ii) an individual whose discharge or release from active duty prevents the monthly reduction of basic pay under paragraph (1).”.

(2) Section 3011(d) of such title is amended by adding the following new paragraphs at the end thereof:

“(4) Any initial period of active duty beginning after June 30, 1985, shall not be considered an individual's obligated period of active duty for purposes of this chapter if—

“(A) such period of active duty is one year or less in duration;

“(B) the individual concerned is discharged or released from such period of active duty with an honorable discharge for a reason specified in subclause (I) or (III) of subsection (a)(1)(A)(ii); and

“(C) the individual, subsequent to such discharge or release, completes a period of active duty that (i) is at least one month longer in duration than any previous active duty period from which the individual was so discharged or released and (ii) would have established entitlement to educational assistance under this chapter if the individual had not served the period of active duty referred to in subparagraph (A).

“(5) The commencement of any period of service that is not considered an individual's initial obligated period of active duty as a result of this subsection shall not be considered an individual's initial entry on active duty in the armed forces for purposes of subsection (c)(1) or section 3012(d)(1) of this title.”.

(3) Section 3012(c) of such title is amended—

(A) by striking out “(c) The basic pay” and inserting in lieu thereof “(c)(1) Except as provided in paragraph (2), the basic pay”;

(B) by adding at the end of paragraph (1) (as designated by subparagraph (A) of this paragraph) the following new sentence at the end thereof: “An individual who becomes entitled to educational assistance under this chapter based upon the service described in section 3011(d)(4)(B) of this title shall be credited under this subsection with the amount of basic pay reduced under this subsection (if any) during a previous period of active duty.”; and

(C) by adding after paragraph (1) (as designated by subparagraph (A) of this paragraph) the following:

“(2)(A) An individual described in subparagraph (B) who is establishing or has established entitlement to educational assistance under this chapter based upon the service described in section 3011(d)(4)(B) of this title shall pay to the Secretary of Defense an amount equal to the amount required by paragraph (1). A payment under this paragraph shall be made by reductions in basic pay, a payment of cash,

or a combination thereof, in accordance with such regulations as the Secretary of Defense shall prescribe.

"(B) An individual referred to in subparagraph (A) is—

"(i) an individual who separated from service before the date of enactment of this subsection; or

"(ii) an individual whose discharge or release from active duty prevents the monthly reduction of basic pay under paragraph (1)."

(4) Section 3013 of such title is amended by adding at the end thereof the following:

"(g)(1) The amount of an individual's entitlement specified in subsections (a) through (d) of this section that is based on service subsequent to a period of service described in section 3011(d)(4)(A) of this title shall be reduced by the amount of the individual's entitlement used (if any) that is based on service described in such section 3011(d)(4)(A).

"(2) No part of the net amount of an individual's entitlement based on service subsequent to a period of service described in section 3011(4)(B) of this title shall be used as a basis for payment of educational assistance under this chapter for education or training pursued by the individual prior to the date of enactment of this subsection."

SEC. 3. BAR TO VETERANS EDUCATIONAL ASSISTANCE FOR COURSE ENROLLMENT UNDER THE GOVERNMENT EMPLOYEES TRAINING ACT.

Section 3681(a) of title 38, United States Code, is amended by striking out "and whose full salary is being paid to such person while so training".

SEC. 4. REQUIREMENT THAT TRAINING ESTABLISHMENTS CERTIFY HOURS WORKED UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

Section 2136(b) of title 10, United States Code, is amended by striking out "1780(c)".

SEC. 5. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

(a) DISAPPROVAL.—(1) Section 3676 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study."

(2) Chapter 36 of such title is amended by inserting after section 3680 the following new section:

"§ 3680A. Disapproval of enrollment in certain courses

"(a) The Secretary shall not approve the enrollment of an eligible veteran in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

"(4) any independent study program except an accredited independent study program leading to a standard college degree.

"(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

"(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to

be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2);

"(B) in a farm cooperative training course; or

"(C) in a course described in section 3689(b)(6)."

(3)(A) Chapter 34 of such title is amended by repealing section 3473.

(B) The table of sections at the beginning of chapter 34 of such title is amended by striking out the item relating to section 3473.

(4) Section 3034 of such title is amended—

(A) in subsection (a)(1), by striking out "3473,"; and

(B) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(5) Section 3241 of such title is amended—

(A) by striking out "3473," both places it appears; and

(B) in subsection (b)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(6) Section 2136(c)(1) of title 10, United States Code, is amended by striking out "1673(b)" and inserting in lieu thereof "3680A(b)".

(7) Section 3523(a)(4) of title 38, United States Code, is amended by striking out "one" and all that follows and inserting in lieu thereof "an accredited independent study program leading to a standard college degree."

(8) The table of sections at the beginning of chapter 36 of such title is amended by inserting after the item relating to section 3680 the following new item:

"3680A. Disapproval of enrollment in certain courses."

(b) SAVINGS PROVISION.—The amendments made by paragraphs (2) through (6) of subsection (a) of this section shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under title 38, United States Code, or title 10, United States Code, in effect on that date.

SEC. 6. MEASUREMENT OF COURSES.

(a) IN GENERAL.—Section 3688 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking out "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed";

(B) in paragraph (2), by striking out "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required";

(C) in paragraph (4)—

(i) by striking out "in residence"; and

(ii) by inserting ", other than a course pursued as part of a program of education beyond the baccalaureate level," after "semester-hour basis";

(D) in paragraph (6), by striking out "3491(a)(2)" and inserting in lieu thereof "3034(a)(3), 3241(a)(2) or 3533(a)"; and

(E) by striking out paragraph (7) and all that follows to the end of the subsection and inserting in lieu thereof the following:

"(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in paragraph (4) of this

subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by paragraph (1) or (2) of this subsection, as appropriate.”;

(2) in subsection (b), by striking out “34” and inserting in lieu thereof “30, 32”; and

(3) by striking out subsections (c), (d), and (e).

(b) **INDEPENDENT STUDY.**—Section 3532(c) of title 38, United States Code, is amended by striking out paragraphs (3) and (4).

SEC. 7. DEATH BENEFIT.

Section 3017(a)(1)(B) of title 38, United States Code, is amended by inserting before the comma “or within one year after discharge or release from active duty”.

SEC. 8. EDUCATIONAL ASSISTANCE ENTITLEMENT DATES.

(a) **CHANGE IN DATES.**—Title 38, United States Code, is amended—

(1) in section 3011(a)(1)(B), by striking out “on October 19, 1984,” and all that follows through “and—” and inserting in lieu thereof “at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—”;

(2) in section 3012(a)(1)(B), by striking out “on October 19, 1984,” and all that follows through “and—” and inserting in lieu thereof “at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—”; and

(3) in section 3031(e), by striking out “October 18, 1984” and inserting in lieu thereof “June 30, 1985”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as of October 28, 1986.

INTRODUCTION

On May 6, 1992, H.R. 5087, a bill to improve veterans' education assistance programs, was introduced by the Honorable Timothy J. Penny, the Honorable Christopher Smith, the Honorable G.V. (Sonny) Montgomery, and the Honorable Bob Stump. Other cosponsors include Committee members John Paul Hammerschmidt and Claude Harris. Additional cosponsors include Ed Jenkins, Bill Hefner, Bill Richardson, Charles Stenholm, L.F. Payne, Mike Parker and Ron de Lugo.

The Subcommittee met on July 9, 1992, and voted unanimously to recommend H.R. 5087, as amended, to the Full Committee. On July 23, 1992, the Full Committee unanimously approved the bill.

MAJOR PROVISIONS OF H.R. 5087, AS AMENDED

The reported bill would:

1. Enable an individual who was on active duty on August 2, 1990, and who completes his/her GED requirements or receives a secondary school diploma within 12 months of the date of enactment of this measure, whether or not the individual is still on active duty, to establish Montgomery GI Bill (MGIB) eligibility. Under current law, an individual must complete the requirements for a GED *before leaving active duty* in order to be eligible for the MGIB.

This section would also require the Secretaries of the military departments to notify affected individuals of this extension.

2. Provide that individuals who (1) are discharged after a short period of active duty (12 months or less), (2) are eligible for reenlistment, and (3) later reenlist would be considered to have had no prior active duty service for MGIB eligibility purposes. In the event an individual used entitlement earned during the first enlistment,

that entitlement would be deducted from total entitlement earned as a result of the subsequent enlistment.

3. Bar VA payment of education benefits to an individual for training paid for under the Government Employees Training Act, regardless of whether that individual's hours of training are distinct from or overlap his/her regular duty hours of employment.

4. Require that veterans and apprenticeship and on-job training establishments certify the enrollment, attendance, and pursuit of training by veterans receiving benefits under the Montgomery GI Bill-Selected Reserve (Chapter 106, title 10, USC).

5. Limit approval of independent study to those courses that are part of an accredited degree program.

6. (a) Eliminate the standard class session (one class session per week for each credit hour) requirement; (b) provide that when an institution of higher learning (IHL) offers non-college-degree (NCD) courses on a credit-hour basis, the VA would measure those courses in credit hours or, if an IHL offers NCD courses on a clock-hour basis, the VA would measure them in clock hours; (c) remove the distinction in clock-hour measurement for pursuit of accredited and nonaccredited NCD courses; (d) eliminate the payment differential between resident training and independent study and other non-traditional types of training; and (e) provide that payment for concurrent pursuit of a combination of graduate and undergraduate training should be based on training time as certified by the school.

7. Extend eligibility for the death benefit established under section 3017 of title 38, USC, to the survivors of chapter 30 participants who die of service-connected causes within one year of discharge from active duty. Current law provides this benefit only in the case of death while on active duty.

8. Restore chapter 30 eligibility for certain individuals who, due to interrupted service, were not on active duty on October 19, 1984, but who had active duty service sometime during the period beginning on October 19, 1984, and ending on July 1, 1985, and continued on active duty without a break for the period required to establish entitlement under chapter 30.

BACKGROUND AND DISCUSSION OF THE BILL

Section 320 of Public Law 99-576, the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, established the Commission on Veterans' Education Policy. The purpose of the Commission was to report to the Secretary of Veterans Affairs and the Congress its findings, views, and recommendations regarding a number of issues concerning veterans' educational assistance programs.

The Commission deliberated for approximately 18 months and submitted its first report. The VA submitted its final report on the Commission's recommendations to the Committees in 1991. Several of the Commission's recommendations have already been enacted, and many of the provisions of H.R. 5087 are derived from recommendations made by the Commission and supported by the VA.

Additional provisions included in the Committee bill are intended to correct inequitable situations which arose as a result of the

Persian Gulf War while others are derived from a draft bill submitted by the Department of Veterans Affairs on July 2, 1991.

**EXTENSION OF PERIOD FOR COMPLETING REQUIREMENTS FOR
EQUIVALENCY CERTIFICATE TO SECONDARY SCHOOL DIPLOMA**

Section 1 of H.R. 5087, as amended, would enable an individual who was on active duty on August 2, 1990, and who completes his or her GED requirements or receives a secondary school diploma within 12 months of the date of enactment of this measure, whether or not the individual is still on active duty, to establish Montgomery GI Bill (MGIB) eligibility. Under current law, an individual must complete the requirements for a GED before leaving active duty in order to be eligible for the MGIB.

Several cases recently brought to the Committee's attention revealed that some servicemembers were nearing completion of their GED requirements for chapter 30 eligibility when they were sent to Southwest Asia during the Persian Gulf War. In one instance, a young Marine returned to the United States from the Gulf in July 1991, was discharged from active duty in August 1991, and completed his GED in September 1991. Because he did not complete his GED before discharge, this young man is currently ineligible for MGIB benefits although he clearly would have completed all eligibility requirements had the war not intervened.

It is the Committee's view that servicemembers who were unable to complete the GED requirements for MGIB eligibility prior to separation from the Armed Forces because of circumstances related to the Persian Gulf War should not be penalized because of their wartime service and should be provided an opportunity to meet the MGIB eligibility requirements.

It should also be noted and stressed that section 1 of the Committee bill requires the Secretary of each military department to notify each individual who was on active duty on August 2, 1990, and who has not met the requirements of a secondary school diploma or equivalency certificate, of the extension provided in this legislation. Notification must be made not later than 60 days after the date of enactment of this Act. The Committee expects that the Secretaries will take whatever steps are necessary to ensure that every affected individual receives actual notice of this change.

**EXCLUSION OF CERTAIN PERIODS FROM INITIAL OBLIGATED PERIOD OF
ACTIVE DUTY FOR PURPOSES OF DETERMINING EDUCATIONAL BENEFITS**

Under existing law, servicemembers who initially enter active duty, subsequently separate from service for a short time, and later reenter on active duty may not earn education entitlement based on the second enlistment. The Committee believes these individuals should have the opportunity to earn full GI Bill entitlement. Accordingly, section 2 of H.R. 5087 would provide that a period of active duty of 12 months or less would not be counted as an individual's initial obligated period of service for MGIB eligibility purposes if the discharged veteran later reenlists or reenters on active duty and serves a full term of active duty. Any portion of entitlement used based on the first enlistment would be deducted from the total entitlement earned as a result of the subsequent enlist-

ment. Additionally, any reduction in basic pay during the original period of service would be counted toward the \$1,200 pay reduction required for MGIB eligibility.

A case brought to the attention of the Committee which raised this issue involves a young man who joined the Marine Corps in August 1985. He was honorably discharged four months later because of two broken legs. Subsequently, in May 1986, he entered the Navy, served on active duty for five years and was honorably discharged in 1991, whereupon he learned that he was entitled to only four months of GI Bill benefits, based on his first enlistment.

The Committee did not intend to deny education benefits to an individual as clearly deserving as this young veteran and believes this provision would correct an unfair situation.

**BAR TO VETERANS EDUCATIONAL ASSISTANCE FOR COURSE ENROLLMENT
UNDER THE GOVERNMENT EMPLOYEES TRAINING ACT**

Under current law, section 3681(a) of title 38 provides that no educational assistance allowance under chapters 30, 34, 35, or 36 of title 38 or chapter 106 of title 10, and no subsistence allowance under chapter 31 of title 38 may be paid to an individual who is attending a course of education or training paid for under the Government Employees Training Act (GETA) and whose full salary is being paid while so training. A recent precedent opinion by VA's General Counsel has construed this section as permitting payment of VA educational assistance to a veteran training under the GETA if the training was received during periods of the day other than those for which the individual's salary is being paid.

Section 4 of the Committee bill, which is derived from the July 2, 1991, draft bill submitted by the VA, would clarify that payment of VA education benefits should not be made to an individual for pursuit of a course of education also paid for by the Government under the GETA as this practice constitutes a duplication of benefits. This principle would apply even where the individual's hours of training are different from those daily work hours for which the person receives a full Federal salary, thus eliminating this overlapping expenditure of Federal funds.

**REQUIREMENT THAT TRAINING ESTABLISHMENTS CERTIFY HOURS
WORKED UNDER THE MONTGOMERY GI BILL-SELECTED RESERVE**

Section 5 of the reported bill would amend section 2136(b), title 10, USC, to reinstate the reference to section 3680(c) of title 38, which governs certification of enrollment in and pursuit of a program of apprenticeship or other on-job training. A recent amendment to chapter 106 of title 10 deleted reference to section 1780(c) [now section 3680(c)].

Public Law 101-237 amended chapter 106, title 10 (Montgomery GI Bill-Selected Reserve) to require a reduction in a reservist's apprenticeship or on-job training benefits whenever he or she does not work 120 hours. However, there is now no express legal authority to require a training establishment to certify the number of hours worked by an individual training under chapter 106. The Committee would rectify the inadvertent removal of this necessary

administrative section through this provision which is derived from the VA's July 2, 1991, draft bill.

DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY

Section 5 of H.R. 5087 would limit approval of independent study to those courses that are part of an accredited degree program. Under current law, nonaccredited independent study courses may be approved for GI Bill benefits. In order to protect those few eligible students currently enrolled in nonaccredited independent study courses, this section would provide that they could continue to receive benefits until their programs are completed so long as they stay continuously enrolled.

This section and section 6 of the Committee bill are based on recommendations made by the Commission on Veterans' Education Policy and VA regarding improvements in the current measurement system. The implementation of this section would eliminate the need for standard class sessions and distinctions between courses based on the mode of delivery.

This section would also move the "disapproval of enrollment" section (current section 3473) from chapter 34 to chapter 36 (new section 3680A).

MEASUREMENT OF COURSES

As noted in VA's Final Report on Veterans' Education Policy, the Commission on Veterans' Education Policy and the Department are in agreement that the current measurement system is extremely complex and burdensome. For example, measurement provisions governing the payment of benefits in some programs provide for five different payment levels; full time, three-quarter time, half-time, less than half-time but more than one-quarter, and one-quarter time or less. The VA has issued detailed regulations and instructions to define these payment levels.

For nondegree training at vocational schools, current measurement provisions make distinctions between accredited and nonaccredited facilities and between shop practice and classroom training. Under certain limited circumstances, nondegree courses may be measured on a credit hour basis. Nondegree training at colleges is measured in three different ways. Certain courses qualify for credit hour measurement. Others qualify for a system of "mixed" measurement which combines credit hours and clock hours while others qualify for purely clock hour measurement.

For undergraduate degree programs, there is a distinction between courses taken in residence and courses taken by independent study or open circuit television. Some courses are considered to be a combination of resident training and independent study. For resident undergraduate courses, measurement depends on the number of credit hours of enrollment and the number of standard class sessions that are scheduled each week of the term. VA measures the enrollment based on the lesser of the credit hours or standard class sessions. In the extreme case, the rate of payment can change each week because of changes in the student's scheduled classroom training. This system results in a reduction in payment for nearly all nontraditional schedules. This complicated measurement system

is at least in part the result of efforts made by Congress and VA to control abuses in veterans' education programs prevalent in the 1970's.

The Committee agrees with the VA and the Commission on Veterans' Education Policy that clarification and simplification of the existing measurement system are needed. All are in agreement that veterans pursuing the same number of credit hours should receive the same monetary benefits, regardless of the mode of teaching. The Committee also agrees that distinctions in the level of benefits paid is not a valid means for differentiating as to the value of education programs, nor is it a way to end abuse in these programs. The proper response to abuse is the disapproval of such courses in the first place. It is the responsibility of state approving agencies (SAAs) to approve appropriate programs and monitor the quality of those programs, and the SAAs have successfully fulfilled those responsibilities.

Accordingly, the Committee bill would: eliminate the standard class session (one class session per week for each credit hour) requirement; provide that when an institution of higher learning (IHL) offers non-college-degree (NCD) courses on a credit-hour basis, the VA would measure those courses in credit hours or, if an IHL offers NCD courses on a clock-hour basis, the VA would measure them in clock hours; remove the distinction in clock-hour measurement for pursuit of accredited and nonaccredited NCD courses; eliminate the payment differential between resident training and independent study and other non-traditional types of training; provide that payment for concurrent pursuit of a combination of graduate and undergraduate training should be based on training time as certified by the school.

DEATH BENEFIT

Section 7 of H.R. 5087 would extend eligibility for the death benefit established under section 3017, title 38, USC, to the survivors of chapter 30 participants who die of service-connected causes within one year of discharge from active duty. Current law provides this benefit only in the case of death while on active duty.

This provision was recommended by the Commission on Veterans' Education Policy and the VA. The Committee agrees that, as a matter of equity, the death benefit should be extended to include those service-connected deaths which occur within one year of separation from the military.

EDUCATIONAL ASSISTANCE ENTITLEMENT DATES

Section 8 of the Committee bill would restore chapter 30 eligibility for certain individuals who, due to interrupted service, were not on active duty on October 19, 1984, but who had active duty service sometime during the period beginning on October 19, 1984, and ending on July 1, 1985, and continued on active duty without a break for the period required to establish entitlement under chapter 30.

Under current law, an individual who, on December 31, 1989, was eligible for benefits under chapter 34, title 38, USC (Vietnam Era GI Bill) is eligible to convert to the chapter 30 program if the

individual was on active duty October 19, 1984, had no break in service after that date, and served three years of continuous active duty after June 30, 1985.

By way of background, Public Law 98-525 (signed October 19, 1984) established sections 1411 and 1412 (now sections 3011 and 3012) of title 38, restricting the right to convert chapter 34 eligibility to chapter 30 eligibility to those individuals who had no break in service after December 31, 1976, and served at least three years of continuous active duty after June 30, 1985. Public Law 99-145 (signed November 8, 1985) deleted the clause "without a break in service since December 31, 1976", thus imposing no restriction on individuals with breaks-in-service so long as they served three years of continuous active duty after June 30, 1985. A provision contained in Public Law 99-576 (signed October 28, 1986) then inserted the language "was on active duty on October 19, 1984, and without a break in service since October 19, 1984", thus retroactively terminating MGIB eligibility for individuals who were not on active duty on October 19, 1984, but who were otherwise eligible and did serve three years of continuous active service after June 30, 1985.

Section 8(a)(8) of H.R. 1358, as approved by the House on October 2, 1989, contained a similar provision.

SECTION-BY-SECTION ANALYSIS

Section 1—Extension of Period for Completing Requirements for Equivalency Certificate to Secondary School Diploma

Section 1 of H.R. 5087 would extend the period for meeting the MGIB secondary school requirement for eligibility. Individuals who were on active duty on August 2, 1990, are authorized 12 months from the date of enactment of this measure to complete this requirement.

Section 2—Exclusion of Certain Periods From Initial Obligated Period of Active Duty for Purposes of Determining Educational Benefits

Section 2 provides that a period of active duty of less than 12 months would not be counted as part of an individual's initial obligated period of service for MGIB eligibility purposes if the discharged veteran later reenlists or reenters on active duty. Any reduction in basic pay during the original period of service would be counted toward the \$1200 pay reduction required for MGIB eligibility.

Section 3—Bar to Veterans Educational Assistance for Course Enrollment Under the Government Employees Training Act

Section 3 would amend section 3681(a), title 38, United States Code to bar the Department of Veterans Affairs (VA) from paying education benefits to individuals for training paid for under the Government Employees Training Act whether or not such training is conducted during or outside of regular duty hours.

Section 4—Requirement That Training Establishments Certify Hours Worked Under the Montgomery GI Bill Selected Reserve Program

Section 4 establishes a requirement that training establishments certify the enrollment, attendance, and pursuit of training by veterans receiving benefits under the Montgomery GI Bill Selected Reserve (chapter 106, title 10, USC) program.

Section 5—Disapproval of Nonaccredited Independent Study

Section 5 provides that independent study in non-accredited degree programs would no longer be approved. Individuals who are currently pursuing nonaccredited independent study courses on the date of enactment of this legislation who continue to meet the eligibility requirements would continue to receive benefits.

Section 6—Measurement of Courses

Section 6 would make several amendments to chapter 36 to: (1) eliminate the standard class session requirement; (2) eliminate the benefit differential for independent study and other non-traditional types of training in accredited, undergraduate degree programs that have been approved by State Approving Agencies; (3) provide that payment for concurrent pursuit of graduate and undergraduate training be based upon training time certified by the school; (4) eliminate the complex, statutory mixed measurement criteria for pursuit of certain vocational-technical courses at institutions of higher learning; and (5) remove the benefit differential for accredited and non-accredited college degree courses.

Section 7—Death Benefit

Section 7 extends eligibility for the death benefit established under section 3017 of title 38, USC, to the survivors of chapter 30 participants who die of service-connected causes within one year of discharge from active duty.

Section 8—Educational Assistance Entitlement Dates

Section 8 of the bill would restore chapter 30 eligibility for certain individuals who, due to interrupted service, were not on active duty on October 19, 1984, but who later had active duty service during the period beginning on October 19, 1984, and ending on July 1, 1985, and continued on active duty without a break for the period required to establish entitlement to benefits under the chapter 30 program.

OVERSIGHT FINDINGS

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 24, 1992.

Hon. G.V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

Dear Mr. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate of H.R. 5087, a bill to provide veterans' education assistance, as ordered reported by the Committee on Veterans' Affairs on July 23, 1992.

Because this bill would affect direct spending, we have provided an attachment with the estimate required by clause 8 of House Rule XXI.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

1. Bill number: H.R. 5087.
2. Bill title: None.
3. Bill status: As ordered reported by the Committee on Veterans' Affairs on July 23, 1992.
4. Bill purpose: To amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes.
5. Estimated cost to the Federal Government:

(By fiscal years, in millions of dollars)

	1993	1994	1995	1996	1997
Exclusion of certain periods from initial obligated period of active duty for purposes of determining education benefits:					
Estimated budget authority	1	1	1	2	2
Estimated outlays	1	1	1	2	2
Measurement of Courses:					
Estimated budget authority	4	4	4	4	4
Estimated outlays	4	4	4	4	4
Other spending provisions:					
Estimated budget authority	*	*	*	*	*
Estimated outlays	*	*	*	*	*

* Less than \$500,000.

Basis of estimate: H.R. 5087 would amend the following educational assistance programs: Chapter 30 of title 38, United States Code (USC), All Volunteer Force Educational Assistance Program; Chapter 106, of title 10 USC, Educational Assistance for Members of the Selected Reserve; Chapter 32, of title 38 USC, Post Vietnam Era Educational Assistance; and Chapter 35, of title 38 USC, Survivors' and Dependents' Educational Assistance.

Exclusion of Certain Periods from Initial Obligated Period of Active Duty for purposes of Determining Educational Benefits: H.R. 5087 would allow certain members of the armed forces to exclude any initial period of active duty service of one year or less for the purpose of eligibility under the Chapter 30 program. Under current law, if members of the armed forces are released with one year of service or less and then reenlist for a period of active duty,

they are ineligible for Chapter 30 education benefits because their eligibility is based on their first term of service, not the second, even though the second term of service was for 3 years or more as required by the Chapter 30 program. Also, this bill would allow any contributions made during the first term of enlistment to be carried over into the second term and count towards the \$1,200 contribution needed to be eligible for benefits.

CBO estimates this provision would cost \$1 million in fiscal year 1993 and \$7 million over the five-year period. We estimate 2 percent of the enrolled population is discharged with one year of service or less and about 5 percent of those people reenlist. This estimate assumes on average people would train 6 months a year and use a total of 30 months of benefits.

Measurement of courses: H.R. 5087 would increase benefit payments for several types of education courses. For example, the benefit amount for independent study courses would increase by 50 percent. Also, this bill would pay the same benefit amount for vocational studies pursued at accredited and non-accredited institutions. These changes would affect the Chapters 30, 32, 35, and 106 education programs.

CBO estimates this provision would cost \$4 million each year for fiscal years 1993 through 1997. This estimate assumes that between 2 percent and 10 percent of the trainee population would be affected depending on the particular change and that the average benefit increase would range from \$30 to \$100 per month depending on the provision and the education program.

Other spending provisions: This bill has several provisions that individually and cumulatively would cost less than \$500,000 annually. The provisions would amend the educational assistance programs mentioned at the beginning of this estimate.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. The pay-as-you-go effects of the bill are as follows:

[By fiscal years, in millions of dollars]

	1993	1994	1995
Change in outlays.....	5	5	5
Change in receipts.....	Not Applicable		

7. Estimated cost to state and local government:
8. Estimate comparison: None.
9. Previous CBO estimate: None.
10. Estimate prepared by: Cory Oltman.
11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE ¹

The applicable cost estimate of this Act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

[By fiscal years, in millions of dollars]

	1993	1994	1995
Change in outlays.....	5	5	5
Change in receipts.....	Not Applicable		

INFLATIONARY IMPACT STATEMENT

The reported bill will have no inflationary impact in fiscal year 1993.

DEPARTMENT VIEWS

DEPARTMENT OF VETERANS AFFAIRS,
THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, July 24, 1992.

Hon. G.V. MONTGOMERY,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

Dear Mr. CHAIRMAN: I am pleased to respond to your request for the views of the Department of Veterans Affairs and our estimate of costs concerning H.R. 5087, a bill "To amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes."

The Department of Veterans Affairs (VA) supports enactment of H.R. 5087 with certain modifications, and provided the pay-as-you-go costs of the bill are offset as required by the Omnibus Budget Reconciliation Act of 1990 (OBRA).

H.R. 5087 is divided into eight sections. Section 1 extends the period for meeting the chapter 30 Montgomery GI Bill (MGIB) secondary school requirement for eligibility. For most program participants, current law requires that the participant meet the requirements of a secondary school diploma (or equivalency certificate), or successfully complete 12 credit hours of a standard college degree program prior to completion of the participant's qualifying period of military service. Under this bill, individuals who completed or will complete their required qualifying service after August 1, 1990, would have 1 year (11 months, in the case of an individual eligible under section 3012 of chapter 30) from the date of enactment of the bill to meet such educational requirement. VA agrees in concept with this provision, but believes this extension for meeting the chapter 30 eligibility requirement should comport with that provided under section 3018A for involuntarily separated active-duty personnel; i.e., the individual is given until the time he or she plans to

¹ An estimate of H.R. 5087, a bill to provide veterans' education assistance, as ordered reported by the House Committee on Veterans Affairs. This estimate was transmitted by the Congressional Budget Office on July 24, 1992.

use MGIB benefits (and applies therefor) to obtain a high school diploma or the equivalent.

Section 2 of H.R. 5087 would amend the eligibility requirements under chapter 30 to provide that a period of active duty of 12 months or less would not be counted as part of an individual's initial obligated period of service for MGIB eligibility purposes if the discharged veteran later reenlists or reenters on active duty. Any reduction in basic pay during the original period of service would be counted toward the \$1,200 pay reduction required for MGIB eligibility. This provision would avoid unfairly limiting the MGIB entitlement of veterans who had to leave service after serving only a short period and who later reentered and served a full term on active duty. We have no objection to this provision if the direct spending costs are offset as required by OBRA 1990.

Section 3 would amend section 3681(a) to bar VA payment of education benefits to an individual for training paid for under the Government Employees Training Act (GETA), regardless of whether that individual's hours of training are distinct from or overlap his or her regular duty hours of employment.

Currently, section 3681(a) provides that no educational assistance allowance under chapter 30, 34, 35, or 36 of title 38 or chapter 106 or 107 of title 10, and no subsistence allowance under chapter 31 of title 38 may be paid to an individual who is attending a course of education or training paid for under the GETA and whose full salary is being paid while so training. A precedent opinion by VA's General Counsel has construed that section as permitting payment of VA educational assistance to a veteran training under the GETA if the training was received during periods of the day other than those for which the individual's salary is paid.

This amendment would clarify that payment of VA education benefits to an individual for pursuing a course of education also paid for by the Government under the GETA constitutes a duplication of benefits, even where the individual's hours of training are different from those daily work hours for which the person receives a full Federal salary, thus, eliminating this overlapping expenditure of Federal funds. VA supports this change.

Section 4 would amend 10 U.S.C. § 2136(b) to reinstate the reference to section 3680(c) of title 38 which governs certification of enrollment in and pursuit of a program of apprenticeship or other on-the-job training.

Public Law 101-237 amended chapter 106, the MGIB-Selected Reserve program, to require a reduction in a reservist's apprenticeship or other on-the-job training benefits whenever he or she does not work 120 hours. However, it omitted the reference to section 3680(c), leaving no express legal authority to require a training establishment to certify how many hours the reservist worked. This amendment would rectify the inadvertent removal of this necessary administrative section.

Section 5 would provide that independent study in nonaccredited degree programs would no longer be approved. Those individuals pursuing nonaccredited independent study courses on the date of enactment of this legislation who continue to meet the eligibility requirements for assistance and remain continuously enrolled would continue to receive benefits. This provision is derived from

recommendations of the Commission on Veterans' Education Policy (CVEP) established under Public Law 99-576. VA agrees with the Commission's recommendation in this area and supports this section.

Section 6 would make several amendments to chapter 36 to simplify and standardize course-measurement requirements for VA administered education benefits. These changes would eliminate the benefit differential for independent study and other nontraditional types of training in accredited undergraduate degree programs that have been approved by State approving agencies; eliminate the standard-class-session requirement; base benefit payments for concurrent pursuit of graduate and undergraduate training on the training time certified by the school; eliminate complex, statutory mixed measurement criteria for pursuit of certain vocational-technical courses at institutions of higher learning; and remove the benefit differential for accredited and nonaccredited noncollege-degree courses. VA favors this simplification of the existing complex and administratively burdensome course-measurement provisions as further recommended by the CVEP. We would support this provision provided the appropriate cost offset is enacted as required by OBRA 1990.

Section 7 would amend section 3017 of title 38 to extend eligibility for the death benefit provided under the chapter 30 MGIB to the survivors of an MGIB participant who dies of a service-connected disability within 1 year after discharge or release from active duty.

Currently, the law only provides such a death benefit to survivors of an individual whose service-connected death occurs while on active duty. The amount payable is the amount of the participant's basic military pay reduction (required for MGIB participation) minus the sum of the amount already paid out in education benefits and the amount of any accrued benefits paid or payable in connection with the MGIB chapter 30 program.

VA believes that limiting this death benefit to cases where the individual's death occurs on active duty is inequitable and, therefore, fully supports the concept of extending the benefit to cover the service-connected death of a participant following discharge from active duty. However, we believe that the eligibility period for the post-discharge, service-connected death benefit should be extended to 10 years after the veteran's discharge or release from active duty (comparable to the individual's delimiting period for using the MGIB benefits), rather than just the 1-year period provided in H.R. 5087. Under either proposal, the Office of Management and Budget (OMB) estimates the pay-as-you-go cost to be less than \$500,000 annually.

Section 8 of H.R. 5087 would amend the chapter 30 eligibility requirements for those individuals who had chapter 34 eligibility on December 31, 1989. The law now requires that these individuals must have been on active duty on October 19, 1984, and must have served without a break in service (an interval of more than 90 days) between October 19, 1984, and July 1, 1985. Section 8 would delete the stipulation that there be no break in service between October 19, 1984, and July 1, 1985. This provision would be retroactive to October 28, 1986.

When the original chapter 30 "New GI Bill" legislation was enacted on October 19, 1984, individuals eligible for education benefits under chapter 34 (the Vietnam Era GI Bill) as of December 31, 1989, who served without a break in service from December 31, 1976, and who served at least 3 years of continuous active duty after June 30, 1985, were eligible for the new chapter 30 benefits. Public Law 99-145, enacted November 8, 1985, amended the original law to allow servicepersons with chapter 34 eligibility to earn benefits under chapter 30 even though they had a break in service after December 31, 1976. Subsequently, however, Public Law 99-576 (enacted October 28, 1986) again amended the chapter 30 eligibility criteria to require that such an individual must have been on active duty on October 19, 1984, and must have served without a break since that date.

As mentioned above, prior to Public Law 99-576, an individual could have been eligible for chapter 30 benefits even with a break in service after October 19, 1984. Thus, section 8 of this measure, by deleting the requirement that there be no break in service between October 19, 1984, and July 1, 1985, would restore eligibility, retroactive to October 28, 1986, to those persons who reentered active-duty service during such period with the expectation of receiving chapter 30 benefits. VA endorses this amendment if the direct spending costs are offset as required by OBRA 1990.

Most of the provisions of H.R. 5087 affect direct spending and therefore are subject to the pay-as-you-go requirements of OBRA 1990. We note that only section 2 of this measure, which extends full MGIB benefits to certain first-term enlistees, and section 6, which simplifies and standardizes course measurement, would have significant pay-as-you-go cost implications. OMB estimates enactment of this measure would increase direct spending by \$45 million in FY 1993 and \$355 million over a 5-year period. The administrative costs would be \$7 million over a 5-year period. At your request, we are enclosing a preliminary 5-year cost estimate, together with the assumptions and methodology used in arriving at this estimate.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 5087 to the Congress.

Sincerely,

EDWARD J. DERWINSKI.

Enclosure.

PRELIMINARY COST ESTIMATE, H.R. 5087, 102D CONGRESS

1. This bill would make numerous amendments to the Montgomery GI Bill-Active Duty program (chapter 30 of title 38) and to the Montgomery GI Bill-Selected Reserve program (chapter 106 of title 10).
2. Under current law, a Montgomery GI Bill (MGIB) participant must meet the secondary education requirement of that program before the first period of active duty ends. Section 1 of this bill would allow participants additional time to complete this requirement if they were on active duty on August 2, 1990. These individuals would be given an additional 12 months (11 months in the case of persons with a 2-year active duty plus 4-year Selected Reserve

obligation) from the enactment date of this bill, to meet the educational requirements. This section would only impact those individuals who entered on active duty for the first time after June 30, 1985, because current law (section 3011(a)(2)) requires that an individual who converted from the Vietnam Era GI Bill have a high school diploma or an equivalency certificate before December 31, 1989. According to the Department of Defense (DOD), the 1991 educational entry level of enlistees with at least a high school diploma or equivalency is 99.5 percent. On the basis of this information, section 1 of this bill is estimated to cost less than \$500,000 in any year.

3. Section 2 amends the chapter 30 eligibility requirements for certain individuals who establish chapter 30 entitlement based on less than 12 months of initial active-duty service. Under this section, such service, which only results in month-for-month entitlement, would not be considered the individual's initial obligated active-duty period if the individual subsequently reenlists. Upon completion of the qualifying reenlistment period, the individual would be entitled to the full 36 months of chapter 30 benefits (less any already used). At the time of reenlistment, these individuals would have their pay reduced by \$100/month for any remaining balance needed to satisfy the \$1,200 pay reduction requirement. Shown below are the projected workloads, costs (in thousands) and pay reduction amounts:

Fiscal Year	Trainees	Benefits costs	Pay reductions	FTE	Administrative cost
1993	17,000	\$39,700	\$49,000	17	\$906
1994	24,000	56,300	7,000	24	1,143
1995	29,400	68,800	7,000	29	1,449
1996	31,900	74,700	7,000	32	1,676
1997	35,400	-82,800	7,000	35	1,905
Total (5 year)	137,700	322,300	77,000		7,079

4. The proposed change in section 3 would bar VA educational assistance to veterans whose education or training is being paid under the Government Employees Training Act (GETA). This change would result in benefit savings of less than \$500,000. Section 4 would amend certain provisions in title 10, United States Code, that are under the jurisdiction of the Department of Defense. We defer the costing of this section to the DOD. Section 5 would preclude VA-administered education benefits for a nonaccredited course of education pursued in whole or in part by independent study. This section of the bill is expected to be cost neutral because individuals would switch to an accredited course.

5. Section 6 would standardize (to the level now applicable only to approved accredited courses) the full-time measurement of vocational-technical courses offered on a clock-hour basis not leading to a standard college degree. This section also would eliminate the statutory differential between benefit rates for resident training and for independent study and other nontraditional types of training under chapters 30, 32, and 35 of title 38 and chapter 106 of title 10. Because the current measurement system is very complex, this

proposal would standardize and simplify the methods used to determine the rate of course pursuit and, in turn, the rate of monthly benefit payments appropriate to that pursuit. The 5-year costs (dollars in thousands) of this proposal are shown below for the title 38 programs. We defer to the DOD as to the costs applicable to the chapter 106 program.

	1993	1994	1995	1996	1997	5-year costs
Chapter 30.....	\$4,000	\$4,700	\$5,300	\$5,800	\$6,300	\$26,100
Chapter 32.....	400	300	300	200	200	1,400
Chapter 35.....	800	700	700	700	700	3,600
Total.....	5,200	5,700	6,300	6,700	7,200	31,100

6. Under current law, in the case of the service-connected death of an individual while on active duty, the individual's survivors receive, as a death benefit, the amount of the servicemember's chapter 30 basic pay reduction less any benefit amount that was paid or is payable. Section 7 of this bill would extend entitlement to this payment to survivors of individuals who die within 1 year after being released from active duty. No statistical data is available that shows the number of persons who die within 1 year of being discharged. However, since the amount reduced from a veteran's pay would be depleted if he or she trained full time for 4 months, this section should result in insignificant benefits cost; i.e., less than \$500,000.

7. Section 8 of the bill would amend sections 3011(a)(1)(B) and 3012(a)(1)(B). Currently, individuals who have chapter 34 eligibility on December 31, 1989, were in service on October 19, 1984, had no break in service since October 19, 1984, and completed at least 3 years of continuous active duty after June 30, 1985, are eligible for chapter 30 benefits. This change would eliminate the requirement that the individual have no break in service between October 19, 1984, and June 30, 1985. No data are available to determine the number of individuals that would gain eligibility to chapter 30 as a result of the proposed change. It is assumed, however, that the number would be minimal and the benefits cost would be insignificant; i.e., less than \$500,000.

METHODOLOGY

(a) *Identification of bill.*—H.R. 5087, 102d Congress, 2d Session.

(b) *Highlights.*—This bill would make numerous amendments to the Montgomery GI Bill-Active Duty program (chapter 30 of title 38) and to the Montgomery GI Bill-Selected Reserve program (chapter 106 of title 10). The proposed changes are as follows:

Section 1 allows individuals who were on active duty on August 2, 1990, either 11 or 12 additional months from date of enactment of this bill to complete a high school diploma or an equivalency certificate.

Section 2 does not consider an initial obligated period, ending with less than 12 months of service, as the individual's initial obligated active-duty period for chapter 30 eligibility purposes if the individual subsequently reenlists.

Section 3 bars VA educational assistance in all instances when a veteran's education or training is being paid for under the Government Employees Training Act (GETA).

Section 5 precludes approval of VA-administered education benefits for nonaccredited independent study courses.

Section 6 removes the accreditation status distinction in measuring vocational-technical courses not leading to a standard college degree (NCD courses) and eliminates the standard-class-session requirement, the mixed measurement of NCD courses, and the difference between benefit rates for resident training and those for independent study and other nontraditional types of training under chapters 30, 32, 35 of title 38 and chapter 106 of title 10.

Section 7 pays certain survivors of veterans who die within 1 year after being released from active duty the amount reduced from the veteran's basic military pay, less any benefit amount already paid or payable.

Section 8 permits certain individuals with chapter 34 eligibility who were in service at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, an opportunity to participate in the chapter 30 program.

(c) *Estimated cost.*—See Cost Estimate.

(d) *Estimated caseload.*—See Cost Estimate.

(e) *Employment requirement.*—See Cost Estimate.

(f) *Administrative methodology.*—Based on the projected number of additional education trainees under section 2 of the bill, the education workload will increase in the General Operating Expenses appropriation. To implement section 2, the additional workload per 1,000 trainees will be accomplished by one FTE at an average grade level of GS 9/5. The anticipated 5-year cost estimate includes both payroll and associated nonpayroll costs for the additional staffing requirements of that section. The projected administrative costs for sections 1, 3, and 5 through 8 of this bill would be absorbed with current FTE levels.

(g) *Benefits methodology.*—Sections 1, 3, 5, 7, and 8 of this bill are projected to have insignificant benefit costs; i.e., less than \$500,000 in any year. In costing section 2 of this proposal, we used the actual 1991 percent of servicepersons with less than 12 months of active-duty service who could reenter into the military. In 1991, 8.5 percent of the servicepersons who separated with less than 1 year of service could potentially have reenlisted. This percentage was applied to the estimated number of veterans who will separate from the service in 1993 through 1997. The current first-term reenlistment rate of 50 percent was applied to the potentially eligible population that could reenlist. The number of trainees generated were applied to the current chapter 30 training cohort to predict yearly trainees. These individuals are projected to reenlist for an additional 3-year obligated period. The average basic benefit payment is currently \$2,340. We also assumed that reenlisted servicepersons would have their pay reduced by \$100 for the first 7 months on active duty in order to satisfy the \$1,200 pay reduction requirement.

Section 6 would result in increased benefits for trainees who pursue courses subject to the measurement changes indicated

below for chapters 30, 32, and 35 of title 38. To determine the costs of this section, we applied the percentage of trainees currently training that would be affected by this change. The percentage was applied to the trainees in the current budget. These trainees were multiplied by the increased benefit payments and the number of months in training. The following chart reflects the changes that would standardize and simplify measurement of courses pursued under the title 38 education benefit programs administered by VA. (Section 6)

	Rate increase	Current percent training	Projected percent affected	Additional months of benefits
Elim. Std. Class Sess. Requirement:				
Chapter 30.....	\$60	43	7	5
Chapter 32.....	57	¹ 53	7	5
Chapter 35.....	80	55	7	5
Elim. NCD Course Mixed Measurement:				
Chapter 30.....	60	6	1	6
Chapter 32.....	57	² 3	1	6
Chapter 35.....	80	4	1	6
Elim. NCD Course Accreditation as Measure ¹ Factor:				
Chapter 30.....	60	6	5	6
Chapter 32.....	57	² 3	5	6
Chapter 35.....	80	4	5	6
Elim. Benefit Differential for I/S Courses:				
Chapter 30.....	138	94	2	6
Chapter 32.....	112	³ 95	2	6
Chapter 35.....	90	96	2	6

¹ Current percent in Institutions of Higher Learning (IHL) undergraduate training.

² Current percent in vocational studies.

³ Current percent of IHL trainees at all levels.

(h) *Other assumptions.*—All sections except for section 8 assumed an effective date of October 1, 1992. The effective date for section 8 is October 28, 1986.

(i) *Similar estimates.*—Sections 5, 6 and 7 were proposed in a Final Report on Education Policy submitted to the House and Senate Veterans Affairs Committees on August 29, 1990. Section 8 of this bill was proposed in H.R. 1358, 101st Congress.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 5087 as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

Subchapter II—Basic Educational Assistance

§ 3011. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) who—

(A) * * *

(B) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and was on active duty [on October 19, 1984, and without a break in service since October 19, 1984, and—] *at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—*

(i) * * *

(2) who, *except as provided in subsection (e) of this section*, completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

(A) * * *

[(b) The basic pay] *(b)(1) Except as provided in paragraph (2), the basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (c)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay. Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual. An individual who becomes entitled to educational assistance under this chapter based upon the service described in subsection (d)(4)(B) shall be credited under this subsection with the amount of basic pay reduced under this subsection (if any) during a previous period of active duty.*

(2)(A) An individual described in subparagraph (B) who is establishing or has established entitlement to educational assistance under this chapter based upon the service described in subsection (d)(4)(B) shall pay to the Secretary of Defense an amount equal to the amount required by paragraph (1). A payment under this paragraph shall be made by reductions in basic pay, a payment of cash, or a combination thereof, in accordance with such regulations as the Secretary of Defense shall prescribe.

(B) An individual referred to in subparagraph (A) is—

(i) an individual who separated from service before the date of enactment of this subsection; or

(ii) an individual whose discharge or release from active duty prevents the monthly reduction of basic pay under paragraph (1).

(d)(1) * * *

(4) Any initial period of active duty beginning after June 30, 1985, shall not be considered an individual's obligated period of active duty for purposes of this chapter if—

(A) such period of active duty is one year or less in duration;

(B) the individual concerned is discharged or released from such period of active duty with an honorable discharge for a reason specified in subclause (I) or (III) of subsection (a)(1)(A)(ii); and

(C) the individual, subsequent to such discharge or release, completes a period of active duty that (i) is at least one month longer in duration than any previous active duty period from which the individual was so discharged or released and (ii) would have established entitlement to educational assistance under this chapter if the individual had not served the period of active duty referred to in subparagraph (A).

(5) The commencement of any period of service that is not considered an individual's initial obligated period of active duty as a result of this subsection shall not be considered an individual's initial entry on active duty in the armed forces for purposes of subsection (c)(1) or section 3012(d)(1) of the title.

(e) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate before the end of the 12-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.

§ 3012. Basic educational assistance entitlement for service in the Selected Reserve

(a) Except as provided in subsection (d) of this section, each individual—

(1) who—

(A) * * *

(B) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and was on active duty [on October 19, 1984, and without a break in service since October 19, 1984, and—] at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—

(i) * * *

* * *

(2) who, *except as provided in subsection (f) of this section*; before completion of the service described in clause (1) of this subsection, has completed the requirements of a secondary school diploma (or an equivalency certificate), except that (i) an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree, and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully complete the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty; and

• • • • •
[(c) The basic pay] *(c)(1) Except as provided in paragraph (2), the basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (d)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay. Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual. An individual who becomes entitled to educational assistance under this chapter based upon the service described in section 3011(d)(4)(B) of this title shall be credited under this subsection with the amount of basic pay reduced under this subsection (if any) during a previous period of active duty.*

(2)(A) An individual described in subparagraph (B) who is establishing or has established entitlement to educational assistance under this chapter based upon the service described in section 3011(d)(4)(B) of this title shall pay to the Secretary of Defense an amount equal to the amount required by paragraph (1). A payment under this paragraph shall be made by reductions in basic pay, a payment of cash, or a combination thereof, in accordance with such regulations as the Secretary of Defense shall prescribe.

(B) An individual referred to in subparagraph (A) is—

- (i) an individual who separated from service before the date of enactment of this subsection; or*
- (ii) an individual whose discharge or release from active duty prevents the monthly reduction of basic pay under paragraph (1).*

• • • • •
(f) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 12-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.

§ 3013. Duration of basic educational assistance

(a) • • •

• • • • •

(g)(1) The amount of an individual's entitlement specified in subsections (a) through (d) of this section that is based on service subsequent to a period of service described in section 3011(d)(4)(A) of this title shall be reduced by the amount of the individual's entitlement used (if any) that is based on service described in such section 3011(d)(4)(A).

(2) No part of the net amount of an individual's entitlement based on service subsequent to a period of service described in section 3011(4)(B) of this title shall be used as a basis for payment of educational assistance under this chapter for education or training pursued by the individual prior to the date of enactment of this subsection.

* * * * *

§ 3017. Death benefit

(a)(1) In the event of the service-connected death of any individual—

(A) * * *

(B) who dies while on active duty or within one year after discharge or release from active duty,

* * * * *

Subchapter IV—Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions

§ 3031. Time Limitation for use of eligibility and entitlement

(a) * * *

* * * * *

(e)(1) Except as provided in paragraph (2) of this subsection, in the case of a individual described in section 3011(a)(1)(B) or 3012(a)(1)(B) of this title who is entitled to basic educational assistance under this chapter, the 10-year period prescribed in subsection (a) of this section shall be reduced by an amount of time equal to the amount of time that such individual was not serving on active duty during the period beginning on January 1, 1977, and ending on [October 18, 1984] June 30, 1985.

* * * * *

§ 3034. Program administration

(a)(1) Except as otherwise provided in this chapter, the provisions of sections 3470, 3471, [3473,] 3474, 3476, 3482(g), 3483, and 3485 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 3680(c), 3680(f), 3686(a), and 3687) shall be applicable to the provision of educational assistance under this chapter.

* * * * *

(d)(1) The Secretary may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section [3473(b)] 3680A(b) of this title) by an individual entitled to basic educational assistance under this chapter if—

(A) * * *

CHAPTER 32—POST-VIETNAM ERA EDUCATIONAL ASSISTANCE

Subchapter IV—Administration

§ 3241. Requirements

(a)(1) The provisions of sections 3470, 3471, [3473,] 3474, 3476, 3483, 3485, and 3491(a)(1) of this title and the provisions of chapter 36 of this title (with the exception of section 3687) shall be applicable with respect to individuals who are pursuing programs of education while serving on active duty.

(b)(1) The Secretary may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section [3473(b)] 3680A(b) of this title) by an individual entitled to basic educational assistance under this chapter if—

(A) * * *

(c) The provisions of sections 1663, 3470, 3471, [3473,] 3474, 3476, 3483, and 3491(a) (other than clause (1)) of this title and the provisions of chapter 36 of this title (with the exception of section 3687) shall be applicable with respect to individuals who are pursuing programs of education following discharge or release from active duty.

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

SUBCHAPTER I—PURPOSE: DEFINITIONS

SUBCHAPTER III—ENROLLMENT

3470. Selection of program.

3471. Applications; approval.

[3473. Disapproval of enrollment in certain courses.]

Subchapter III—Enrollment

[§ 3473. Disapproval of enrollment in certain courses]

[(a) The Secretary shall not approve the enrollment of an eligible veteran in—

[(1) any bartending course or personality development course;

[(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

[(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

[(4) any independent study program except one leading to a standard college degree.

[(b) The Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

[(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

[(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, 35, or 36 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

[(2) Paragraph (1) of this subsection—

[(A) does not (except as provided in section 3491(c) of this title) apply with respect to the enrollment of a veteran in a course offered pursuant to subchapter V of this chapter;

[(B) does not apply with respect to the enrollment of a veteran in a farm cooperative training course; and

[(C) does not apply with respect to the enrollment of a veteran in a course described in section 3689(b)(6) of this title.]

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CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Subchapter III—Program of Education

§ 3523. Disapproval of enrollment in certain courses

(a) The Secretary shall not approve the enrollment of an eligible person in—

(1) * * *

(4) any independent study program except **[one leading to a standard college degree.]** *an accredited independent study program leading to a standard college degree.*

Subchapter IV—Payments to Eligible Persons

§ 3532. Computation of educational assistance allowance

(a) * * *

(c)(1) * * *

[(3) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (a)(2) of this section for less than half-time but more than quarter-time pursuit. If the entire training is to be pursued by independent study, the amount of the eligible person's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which such person is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Secretary, for resident training. An eligible person's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 3688 of this title.

[(4) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a course in part by open cir-

cuit television shall be computed in the same manner that such allowance is computed under paragraph (3) of this subsection for an independent study program.]

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

SUBCHAPTER I—STATE APPROVING AGENCIES

3680A. Disapproval of enrollment in certain courses.

Subchapter I—State Approving Agencies

§ 3676. Approval of nonaccredited courses

(a) * * *

(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study.

§ 3680A. Disapproval of enrollment in certain courses

(a) The Secretary shall not approve the enrollment of an eligible veteran in—

- (1) any bartending course or personality development course;
- (2) any sales or sales management course which does not provide specialized training within a specific vocational field;

(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

(4) any independent study program except an accredited independent study program leading to a standard college degree.

(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2);

(B) in a farm cooperative training course; or

(C) in a course described in section 3689(b)(6).

Subchapter II—Miscellaneous Provisions

§ 3681. Limitations on educational assistance

(a) No educational assistance allowance granted under chapter 30, 34, 35, or 36 of this title or 106 or 107 of title 10, or subsistence allowance granted under chapter 31 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or (2) who is attending a course of education or training paid for under chapter 41 of title 5 [and whose full salary is being paid to such person while so training].

* * * * *

§ 3688. Measurement of courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of [thirty hours per week of attendance is required with no more than two and one-half hours of rest periods and not more than 5 hours of su-

pervised study per week allowed, but if such course is approved pursuant to section 3675(a)(1) of this title, then 22 hours per week of attendance, with no more than 2½ hours of rest period per week allowed and excluding supervised study, shall be considered full time] *22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed;*

(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of [twenty-five hours per week net of instruction and not more than 5 hours of supervised study (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 3675(a)(1) of this title, then 18 hours week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time] *18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required;*

* * * * *

(4) an institutional undergraduate course offered by a college or university [in residence] on a standard quarter- or semester-hour basis, *other than a course pursued as part of a program of education beyond the baccalaureate level*, shall be considered a full-time course when a minimum of fourteen semester hours per semester or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), *for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the Secretary, that (A) full-time titution is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;*

* * * * *

(6) an institutional course offered as part of a program of education, not leading to a standard college degree, under section [3491(a)(2)] *3034(a)(3), 3241(a)(2) or 3533(a) of this title*

shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4) of this subsection as determined by the educational institution; and

[(7) an institutional course not leading to a standard college degree, offered by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, shall be measured as full time on the same basis as provided in clause (4) of this subsection if (A) such course is approved pursuant to section 3675 of this title, and (B) a majority of the total credits required for the course is derived from unit courses or subjects offered by the institution as part of a course, so approved, lending to a standard college degree.

Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis with full time measured on the same basis as provided by clause (4) of this subsection; but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours (or two 50-minute periods) of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours (or three 50-minute periods) of attendance per week per quarter or semester. In no event shall such courses be considered a full-time course when less than twenty-two hours per week of attendance is required.]

(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in paragraph (4) of this subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by paragraph (1) or (2) of this subsection, as appropriate.

(b) The Secretary shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter or chapter [34] 30, 32, or 35 of this title.

[(c) For the purposes of subsection (a) of this section, the term "in residence on a standard quarter- or semester-hour basis" means a study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term "standard class session" means one hour (or fifty-minute period) of academic instruction, two hours (or two 50-minute periods) of laboratory instruction, or three hours (or three 50-minute periods) of workshop training.

[(d) Notwithstanding any other provision of this title, an institutional undergraduate course leading to a standard college degree offered by a college or university in residence shall be considered to be a full-time course if—

[(1) the educational institution offering such course considers such course to be a full-time course and treats such course as a full-time course for all purposes, including (A) payment of tuition and fees, (B) the awarding of academic credit for the purpose of meeting graduation requirements, and (C) the transfer of such credits to an undergraduate course meeting the criteria set forth in subsection (a)(4) of this section;

[(2) less than 50 percent of the persons enrolled in such course are receiving educational assistance under this title;

[(3) such course would qualify as a full-time course under subsection (a)(4) of this section, except that it does not meet the requirements of such subsection with respect to weekly class instruction; and

[(4) the course requires—

[(A) pursuit of standard class sessions for each credit at a rate not less frequent than every two weeks; and

[(B) monthly pursuit of a total number of standard class sessions equal to that number of standard class sessions which, during the same period of time, is required for a course qualifying as a full-time course under subsection (a)(4) of this section.

[(e)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course—

[(A) which is offered by an institution of higher learning, and

[(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2) of this subsection. Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

[(2) For the purpose of determining the clock-hour equivalency described in paragraph (1) of this subsection, the total number of credit hours being pursued will be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a) of this section, as appropriate, by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.]

* * * * *

SECTION 2136 OF TITLE 10, UNITED STATES CODE

§ 2136. Administration of program

(a) * * *

(b) Except as otherwise provided in this chapter, the provisions of sections 1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections [1780(c),] 1786(a), 1787, and 1792) shall be applicable to the provision of educational assistance under this chapter. The term "eligible veteran" and the term "a person", as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

(c)(1) The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section [1673(b)] 3680A(b) of title 38) by an individual entitled to educational assistance under this chapter if—

(A) * * *

* * * * *

○